

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-00165-01-CR-W-SOW
)	
RANDALL E. RUE,)	
)	
Defendant.)	

ORDER

Defendant Randall Rue is currently before the Court on allegations that he has violated the conditions of his supervised release. On October 15, 2007, defense counsel filed a Motion for Determination of Competency (doc #37). Counsel requested a judicial determination of defendant's competency prior to his supervised release revocation hearing. Counsel for the government did not oppose this request.

On October 23, 2007, the Court committed the defendant to a United States Medical Center for Federal Prisoners to undergo a psychiatric or psychological examination. On January 16, 2008, the Court held a hearing on the motion to determine competency. The parties stipulated to the Forensic Evaluation dated January 2, 2007, prepared by Jeremiah Dwyer and reviewed by Gary Bolz of the Federal Detention Center in Englewood, Colorado. The diagnosis of the report includes a provisional diagnosis of:

Axis I:	292.0	Benzodiazepine Withdrawal Delirium, resolved
	304.10	Benzodiazepine Dependence, in Remission in a Controlled Environment
	304.40	Methamphetamine Dependence, in Remission in a Controlled Environment
	310.1	Personality Change Due to Brain Damage, Labile Type
Axis II:	301.7	Antisocial Personality Disorder

Axis III: Generalized Convulsive Epilepsy, Hypertension, Hepatitis C, History of Brain Abscess and Craniotomy, Esophageal Reflux, Chronic Airway Obstruction

The examiner concluded that at the present time, the defendant

is not currently suffering from any emotional or mental symptoms with the intensity and duration necessary to meet the DSM-IV-TR criteria for an Axis I diagnosable symptom disorder that would significantly impair his competency to stand trial.

(Forensic Evaluation at 11) Thus, the report concluded that there

is no objective evidence to indicate that Mr. Rue suffers from a mental disorder that significantly impairs his present ability to understand the nature and consequences of the court proceedings against him, or his ability to properly assist counsel in his defense.

(Forensic Evaluation at 14) Therefore, based on the information before the Court, it is

RECOMMENDED that the District Court, after making an independent review of the record and applicable law, enter an order finding that defendant Randall Rue is not currently suffering from a mental disease or defect which would prevent him from understanding the nature and consequences of the proceedings against him or assisting in his own defense and that he is competent to proceed with a hearing on the issue of whether he violated conditions of supervised release.

Counsel are reminded they have ten days from the date of the receipt of a copy of this Report and Recommendation within which to file and serve objections to same. A failure to file and serve timely objections shall bar an attack on appeal of the factual findings in this Report and Recommendation which are accepted or adopted by the district judge, except on grounds of plain error or manifest injustice.

/s/
SARAH W. HAYS

UNITED STATES MAGISTRATE JUDGE